

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**

1. TRANSMITTAL NUMBER:
02-011

2. STATE
Pennsylvania

FOR: HEALTH CARE FINANCING ADMINISTRATION

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
October 1, 2002

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:
42 CFR 430, Subpart B

7. FEDERAL BUDGET IMPACT:
a. FFY **2003** \$ 0
b. FFY **2004** \$ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Supplement I of Attachment 4.19D, Part I

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):

Supplement I of Attachment 4.19D, Part I

10. SUBJECT OF AMENDMENT:

Regulation updates

11. GOVERNOR'S REVIEW (Check One):

- ☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☒ OTHER, AS SPECIFIED:
Review and approval authority has been
delegated to the Secretary of Public Welfare

12. SIGNATURE OF STATE AGENCY OFFICIAL:

Feather O. Houston

13. TYPED NAME:

Feather O. Houston

14. TITLE:

Secretary of Public Welfare

15. DATE SUBMITTED:

16. RETURN TO:

Commonwealth of Pennsylvania
Department of Public Welfare
P.O. Box 2675
Harrisburg, Pennsylvania 17105

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

11/26/02

18. DATE APPROVED:

6/9/03

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

10/1/02

20. SIGNATURE OF REGIONAL OFFICIAL:

Brian Smith

21. TYPED NAME:

CHARLENE BROWN

22. TITLE:

Deputy Director, CMSO

23. REMARKS:

CHAPTER 1187
NURSING FACILITY SERVICES
SUBCHAPTER A. GENERAL PROVISIONS

§ 1187.1. Policy.

- (a) This chapter applies to nursing facilities that are enrolled in the MA Program.
- (b) This chapter governs MA payments to nursing facilities on the basis of the Commonwealth's approved State Plan for reimbursement.
- (c) The MA Program provides payment for nursing facility services provided to eligible recipients by enrolled nursing facilities. Payment for services is made subject to this chapter and Chapter 1101 (relating to general provisions).
- (d) Extensions of time will be as follows:
- (1) The time limits established by this chapter for the filing of a cost report, resident assessment data, an appeal or an amended appeal cannot be extended, except as provided in this section.
 - (2) Extensions of time in addition to the time otherwise prescribed for nursing facilities by this chapter with respect to the filing of a cost report, resident assessment data, an appeal or an amended appeal may be permitted only upon a showing of fraud, breakdown in the Department's administrative process or an intervening natural disaster making timely compliance impossible or unsafe.
 - (3) This subsection supersedes 1 Pa. Code § 31.15 (relating to extensions of time).

§ 1187.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Accrual basis - An accounting method by which revenue is recorded in the period when it is earned, regardless of when it is collected, and expenses are recorded in the period when they are incurred, regardless of when they are paid.

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Allowable costs - Costs as identified in this chapter which are necessary and reasonable for an efficiently and economically operated nursing facility to provide services to MA residents.

Amortization - administrative costs - Costs not directly related to capital formation which are expended over a period greater than 1 year.

Amortization - capital costs - Preopening and ongoing costs directly related to capital formation and development which are expended over a period greater than 1 year. These costs include loan acquisition expenses as well as interest paid during the construction or preopening purchase period on a debt to acquire, build or carry real property.

Appraisal - A determination of the depreciated replacement cost of fixed or movable property, made by qualified personnel of an independent appraisal firm under contract with the Department.

Audited MA-11 cost reports - MA-11 cost reports that have been subjected to desk or field audit procedures by the Commonwealth and issued to providers.

Bed cost limitation - The fixed property cost limited by the amount identified in § 1187.112 (relating to cost per bed limitation adjustment).

Benefits, fringe - Nondiscriminatory employee benefits which are normally provided to nursing facility employees in conjunction with their employment status.

Benefits, nonstandard or nonuniform - Employee benefits provided to selected individuals, which are not provided to all nursing facility employees in conjunction with their employment status, or benefits which are not normally provided to employees.

CMI - Case-Mix Index - A number value score that describes the relative resource use for the average resident in each of the groups under the RUG-III classification system based on the assessed needs of the resident.

Classifiable data element - A data element on the Federally Approved Pennsylvania Specific Minimum Data Set (PA specific MDS) which is used for the classification of a resident into one of the RUG-III categories.

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Cost centers - The four general categories of costs:

- (i) Resident care costs.
- (ii) Other resident related costs.
- (iii) Administrative costs.
- (iv) Capital costs.

County nursing facility - A nursing facility controlled by the county institution district or by county government if no county institution district exists. The term does not include intermediate care facilities for the mentally retarded controlled or totally funded by a county institution district or county government.

DME - Durable medical equipment -

(i) Movable property that:

- (A) Can withstand repeated use.
- (B) Is primarily and customarily used to serve a medical purpose.
- (C) Generally is not useful to an individual in the absence of illness or injury.

(ii) Any item of DME is an item of movable property. There are two classes of DME:

(A) **Exceptional DME** - DME that has a minimum acquisition cost that is equal to or greater than an amount specified by the Department by notice in the *Pennsylvania Bulletin* and is either specially adapted DME or other DME that is designated as exceptional DME by the Department by notice in the *Pennsylvania Bulletin*.

(B) **Standard DME** - Any DME, other than exceptional DME, that is used to furnish care and services to a nursing facility's residents.

Department - The Department of Public Welfare, which is the Commonwealth agency designated as the single State agency responsible for the administration of the Commonwealth's MA Program.

Department of Aging - The Commonwealth agency that, under a memorandum of understanding with the Department, conducts prescreening of target applicants applying for nursing facility services and the screening of MA nursing facility applicants to determine the need for services.

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Department of Health - The Commonwealth agency that, under a memorandum of understanding with the Department, conducts certification surveys of nursing facilities in the MA Program.

Depreciated replacement cost -

(i) As used in conjunction with fixed property, depreciated replacement cost is the amount required to replace the fixed property with new and modern fixed property using the most current technology, code requirements/standards and construction materials that will duplicate the production capacity and utility of the existing fixed property at current market prices for labor and materials, less an allowance for accrued depreciation.

(ii) As used in conjunction with movable property, depreciated replacement cost is the amount required to replace the movable property with new and modern movable property, less an allowance for accrued depreciation.

Depreciation - A loss of utility and a reduction in value caused by obsolescence or physical deterioration such as wear and tear, decay, dry rot, cracks, encrustation or structural defects of property, plant and equipment.

FRV - Fair rental value - The imputed rent for the fixed or movable property used at a nursing facility to provide nursing facility services to its MA residents.

Facility MA CMI - The arithmetic mean CMI for MA residents in the nursing facility for whom the Department paid an MA day of care on the picture date.

Federally Approved Pennsylvania (PA) Specific Minimum Data Set (MDS) - One of three components of the Federally designed Resident Assessment Instrument (RAI). The RAI includes the MDS, the Resident Assessment Protocols and Utilization Guidelines. The MDS is a minimum core of assessment items with definitions and coding categories needed to comprehensively assess a nursing facility resident.

Financial yield rate - The composite Aaa Corporate Bond Yield Average as reported in Moody's Bond Record for the 60-month period ending in March of each year.

Fixed property - Land, land improvements, buildings including detached buildings and their structural components, building improvements, and fixed equipment located at the site of the licensed nursing facility that is used by the nursing facility in the course of providing nursing facility services to residents. Included within this term are heating, ventilating, and air-conditioning systems and any equipment that is either affixed to a building or structural component or connected to a utility by direct hook-up.

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General nursing facility - A nursing facility that is owned by an individual, partnership, association or corporation and operated on a profit or nonprofit basis. The term does not include intermediate care facilities for the mentally retarded, State-owned facilities or county nursing facilities.

Hospital-based nursing facility - A general nursing facility that was receiving a hospital-based rate as of June 30, 1995, and is:

- (i) Located physically within or on the immediate grounds of a hospital.
- (ii) Operated or controlled by the hospital.
- (iii) Licensed or approved by the Department of Health and meets the requirements of 28 Pa. Code § 101.31 (relating to hospital requirements) and shares support services and administrative costs of the hospital.

Independent assessor - An agent of the Department who performs comprehensive evaluations and makes recommendations to the Department regarding the need for nursing facility services or the need for specialized services, or both, for individuals seeking admission to or residing in nursing facilities.

Initial appraisal - An appraisal of the fixed property of a new nursing facility, made for the purpose of computing the fixed property component of that nursing facility's initial capital rate. An initial appraisal will be based, in part, upon an onsite inspection of the new nursing facility's fixed property conducted by qualified personnel of an independent appraisal firm under contract with the Department.

Interest -

(i) **Capital interest** - The direct actual cost incurred for funds borrowed to obtain fixed property, major movable property, or minor movable property.

(ii) **Other interest** - The direct actual cost incurred for funds borrowed on a short-term basis to finance the day-to-day operational activities of the nursing facility, including the acquisition of supplies.

Intergovernmental Transfer Agreement - The formal document that executes the transfer of funds or certification of funds to the Commonwealth by another unit of government within the Commonwealth in accordance with section 1903 of the Social Security Act (42 U.S.C.A. § 1396b(w)(6)(A)).

Investment income - Actual or imputed income available to or accrued by a nursing facility from funds which are invested, loaned or which are held by others for the benefit of the nursing facility.

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Limited appraisal - An appraisal requested by a nursing facility and conducted to determine the effect of changes in the fixed property of a nursing facility, where the cost of the changes to the nursing facility was more than \$200,000 or 10% of the most recent appraised depreciated replacement cost of the nursing facility's fixed property, whichever is lower. A limited appraisal results in the modification of the depreciated replacement cost set forth in an initial appraisal, a reappraisal, or an updated appraisal.

MA conversion resident - A nursing facility resident who applies for and meets the eligibility requirements for MA payment for nursing facility services.

MA day of care - A day of care for which the Department pays 100% of the MA rate for an MA resident or a day of care for which the Department and the resident pay 100% of the MA rate for the MA resident's care.

MA-11 - Financial and Statistical Report Schedules (uniform nursing facility cost report) - A package of certifications, schedules and instructions which makes up the comprehensive cost report.

MSA group - Metropolitan Statistical Area - A statistical standard classification designated and defined by the Federal Office of Management and Budget following a set of official published standards.

Medicare Provider Reimbursement Manual (Health Care Financing Administration (HCFA) Pub. 15-1) - Guidelines and procedures for Medicare reimbursement. Formerly HIM-15.

Movable property - A tangible item that is used in a nursing facility in the course of providing nursing facility services to residents and that is not fixed property or a supply. There are two classes of movable property:

(i) **Major movable property** - Any movable property that has an acquisition cost of \$500 or more.

(ii) **Minor movable property** - Any movable property that has an acquisition cost of less than \$500.

Movable property appraisal - An appraisal of some or all of the movable property of a nursing facility. Depending upon circumstances, this appraisal may pertain to all movable property or only to major movable property. Movable property appraisals are conducted by qualified personnel of an independent appraisal firm under contract with the Department.

NIS - Nursing Information System - The comprehensive automated database of nursing facility, resident and fiscal information needed to operate the Pennsylvania Case-Mix Payment System.

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Net operating costs - The following cost centers:

- (i) Resident care costs
- (ii) Other resident related costs
- (iii) Administrative costs

New nursing facility - A newly constructed, licensed and certified nursing facility; or an existing nursing facility that has never participated in the MA Program or an existing nursing facility that has not participated in the MA Program during the past 2 years.

Nursing facility - A general nursing facility, hospital-based or county nursing facility, which is licensed by the Department of Health and enrolled in the MA Program.

Peer groups - Groupings of nursing facilities for payment purposes under the case-mix system.

Pennsylvania Case-Mix Payment System - The nursing facility payment system which combines the concepts of resident assessments and prospective payment.

Per diem rate - A comprehensive rate of payment to a nursing facility for covered services for a resident day.

Picture date - The first calendar day of the second month of each calendar quarter.

Preadmission screening and annual resident review - The preadmission screening process that identifies target residents regardless of their payment source; and the annual resident review process that reviews target residents to determine the continued need for nursing facility services and the need for specialized services.

Price - A derivative of the allowable costs of the net operating cost centers which has been adjusted by 117% for resident care costs; 112% for other resident related costs; and 104% for administrative costs.

Private pay rate - The nursing facility's usual and customary charges made to the general public for a semiprivate room inclusive of ancillary charges.

Private pay resident - An individual for whom payment for services is made with the individual's resources, private insurance or funds from liable third parties other than the MA Program.

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RNAC - Registered Nurse Assessment Coordinator - An individual licensed as a registered nurse by the State Board of Nursing and employed by a nursing facility, and who is responsible for coordinating and certifying completion of the resident assessment.

RUG-III - Resource Utilization Group, Version III - A category-based resident classification system used to classify nursing facility residents into groups based on their characteristics and clinical needs.

Real estate tax cost - The cost of real estate taxes assessed against a nursing facility for a 12-month period, except that, if the nursing facility is contractually or otherwise required to make a payment in lieu of real estate taxes, that nursing facility's "cost of real estate taxes" is deemed to be the amount it is required to pay for a 12-month period.

Reappraisal - An appraisal of the fixed property of a nursing facility, made for the purpose of computing the fixed property component of that nursing facility's capital rate. A reappraisal will be based, in part, upon an on-site inspection of the nursing facility's fixed property conducted by qualified personnel of an independent appraisal firm under contract with the Department.

Rebasing - The process of updating cost data for subsequent rate years.

Related party - A person or entity that is associated or affiliated with or has control of or is controlled by the nursing facility or has an ownership or equity interest in the nursing facility. The term "control," as used in this definition, means the direct or indirect power to influence or direct the actions or policies of an organization, institution or person.

Related services and items - Services and items necessary for the effective use of exceptional DME. The term is limited to:

- (i) Delivery, set up, and pick up of the equipment.
- (ii) Service, maintenance and repairs of the equipment to the extent covered by an agreement to rent the equipment.
- (iii) Extended warranties.
- (iv) Accessories and supplies necessary for the effective use of the equipment.
- (v) Periodic assessments and evaluations of the resident.

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(vi) Training of appropriate nursing facility staff and the resident in the use of the equipment.

Reorganized nursing facility - An MA participating nursing facility that changes ownership as a result of the reorganization of related parties or a transfer of ownership between related parties.

Resident assessment - A comprehensive, standardized evaluation of each resident's physical, mental, psychosocial and functional status conducted within 14 days of admission to a nursing facility, promptly after a significant change in a resident's status and on an annual basis.

Resident day - The period of service for one resident for a continuous 24 hours of service. The day of the resident's admission is counted as a resident day. The day of discharge is not counted as a resident day.

Resident personal funds - Funds entrusted to a nursing facility by a resident which are in the possession and control of a nursing facility and are held, safeguarded, managed and accounted for by the facility in a fiduciary capacity for the resident.

Special rehabilitation facility - A nursing facility with residents more than 70% of whom have a neurological/neuromuscular diagnosis and severe functional limitations.

Specially adapted DME - DME that is uniquely constructed or substantially adapted or modified in accordance with the written orders of a physician for the particular use of one resident, making its contemporaneous use by another resident unsuitable.

Supply -

(i) A tangible item that is used in a nursing facility in the course of providing nursing facility services to residents and is normally consumed either in a single use or within a single 12-month period.

(ii) Examples of supplies include:

(A) Resident care personal hygiene items such as soap, toothpaste, toothbrushes and shampoo.

(B) Resident activity supplies such as game and craft items.

(C) Medical supplies such as surgical and wound dressings, disposable tubing and syringes, and supplies for incontinence care such as catheters and disposable diapers.

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